

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DIEGO GONZALEZ,

Plaintiff,

v.

WILLIAM KNIPP,

Defendant.

Case No. [12-cv-04557-EMC](#)

ORDER

Docket No. 43

On September 30, 2015, the Court denied the petition for writ of habeas corpus and entered judgment. Petitioner has filed a motion for relief from the judgment under Federal Rule of Civil Procedure 60(b)(1). Dkt. No. 43. Rule 60(b)(1) permits a party to obtain relief from a final judgment or order based on “mistake, inadvertence, surprise or excusable neglect.” Fed. R. Civ. P. 60(b)(1).

Petitioner’s Rule 60(b)(1) motion fails to clearly explain the purported “mistake, inadvertence, surprise or excusable neglect” in his case. Petitioner therefore must file a supplement to his motion (which should be labeled “Supplement To Rule 60(b)(1) Motion”) in which he more clearly identifies and explains the circumstances of each claimed instance of mistake, inadvertence, surprise or excusable neglect that he believes warrants relief from the judgment. At the time he files his Supplement To Rule 60(b)(1) Motion, Petitioner also must file a declaration under penalty of perjury providing the following information: (1) the approximate date on which Petitioner received the November 17, 2014 order extending the traverse deadline, (2) the approximate date on which Petitioner received the order from the Ninth Circuit in *Gonzalez v. Knipp*, Ninth Circuit Case No. 14-17358, dismissing that appeal; (3) the approximate date on which Petitioner received the clerk’s January 16, 2015 letter spreading the mandate from the Ninth

1 Circuit in *Gonzalez v. Knipp*, Ninth Circuit Case No. 14-17358, (4) the approximate date on which
2 Petitioner received a copy of the docket sheet in response to his February 20, 2015 request for a
3 docket sheet, and (5) a description of all Petitioner's efforts to prepare a traverse and the date on
4 which he completed his traverse. Petitioner also must file with his Supplement To Rule 60(b)(1)
5 Motion a copy of his inmate mail log, showing both his outgoing and incoming mail from
6 November 1, 2014 through October 15, 2015. Finally, if Petitioner has prepared a traverse, he
7 should file it at the time he files the Supplement To Rule 60(b)(1) Motion. The foregoing
8 materials -- i.e., the Supplement To Rule 60(b)(1) Motion, the declaration, the mail log, and the
9 traverse -- must be filed and served on Respondent's counsel no later than **November 30, 2015**.
10 Respondent must file and serve his opposition to the Rule 60(b) motion no later than **December**
11 **31, 2015**. Petitioner must file and serve his reply, if any, no later than **January 15, 2016**.

12 **IT IS SO ORDERED.**

13
14 Dated: November 2, 2015



EDWARD M. CHEN
United States District Judge